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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/612,238	07/02/2003	Tetsujiro Kondo	450100-04655	4979

7590 03/30/2009  
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EXAMINER
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YENKE, BRIAN P

ART UNIT	PAPER NUMBER
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2622

MAIL DATE	DELIVERY MODE
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03/30/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/612,238

**Applicant(s)**

KONDO ET AL.

**Examiner**

BRIAN P. YENKE

**Art Unit**

2622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on RCE(03/16/09)/Amendment (02/13/09).
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-2, 4 and 6-18 (19-32 being cancelled) is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) all pending claims above is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 02/13/09 has been entered.

### ***Response to Arguments***

2. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

Regarding the traversal of "OFFICIAL NOTICES" of claims 7-12 the examiner provides the following references supporting such.

Regarding the traversal of claims 7-8, pertaining to the detection of content data as a variance of image levels or mean image level.

US 6,340,992, Markandey, discloses that image data can be analyzed/detected by calculating the mean, variance...for the video image (col 2, line 31-38).

Regarding the traversal of claims 9-12, pertains to environmental detection, temperature, humidity and brightness of light, the examiner evidences such well known detection practices by incorporating US 6,522,313, Cottone, which discloses that a system is calibrated based upon environmental concerns such as temperature, humidity, ambient light levels etc...(col 4, line 11-17).

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2, 4, and 6-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yuen, US 7,003,792 in view of Kondo, US 5,946,044.

In considering claims 1 and 16-18

a) the claimed processing means for processing the content data is met by Yuen which includes a video source and a source of advertisements which are processed in accordance with a user's viewing habit/profile.

b) the claimed acquisition means...is met where the system uses a smart agent (SA) which collects information of a user to infer user's preferences and accordingly determine a user profile, which is based on the user's input/history.

c)-d) the claimed generation means...is met where based upon the content data (video and advertisement) in accordance with the user information, determines the selection/filtering of such information to the user (col 53-67), wherein a user profile is generated based upon psych—demographic data (5), users selection (2), statistical data (4) which are integrated/modeled/weighted to obtain such profile (6) (see Fig 1a and related description).

f) the claimed the value of the second weight...Yuen discloses (eq shown in claim 7) that certain events can give weight or take away weight for a given event, which is based in part on user's selection(s).

However, Yuen does not explicitly disclose the increasing resolution (limitation a) nor generating the second information by performing the weighting such that a greatest weights is applied to the median

of the first information, not the value of the first weight being cumulative as claimed (limitation e), nor the calculating a set of coefficients as newly added.

The concept of increasing the resolution of data is notoriously well known in the art, for the obvious result of obtaining a better picture thus the examiner incorporates Kondo, , which discloses the conversion of a video signal of a standard/low resolution signal into a high resolution signal (col 1, line 8-16).

Yuen does disclose that the smart agent uses an iterative process/means to integrate the habit, statistics and pyscho-demographic information, using equations which are weighted and include the use of probabilities.

It is also known that when evaluating/measuring/detecting a user's viewing habit/profile, the habit/profile would include many layers/parameters (i.e. sports, news, or time of day etc...) and these individuals parameters (e.g. time) may be weighted greater in selecting/filtering such information to the user (i.e. the claimed 2nd information).

The examiner maintains that the weighting of one or more pieces information greater in relation to other pieces of information is considered obvious to one of ordinary skill in the art since statistics/probabilities/data measurement techniques afford such uses in order to provide a user/system the ability to weight different parameters according to different weights in order to provide a desired result(s) the limitation would be obvious to one of ordinary skill in the art to implement.

In the event the applicant disagrees, the examiner would like the applicant to clarify how this feature was not possible to be carried out or unknown in the prior art in order to expedite prosecution.

Regarding the newly added first weight is cumulative and is updated by adding the second weight to the first weight each time the second weight is generated, as stated above, the weighting of data, which includes adding or taking away weights (which Yuen discloses), would be performed by Yuen since the user selection (first information for instance) would be weighted/integrated with the other data (5 and 4, Fig 1a) which generates the user profile (2<sup>nd</sup> information) wherein the first information (user selection) is

weighted with data 3, 4 and 5 (Fig 1a). Thus given the broadest reasonable interpretation when the second weight (whether data 5, data 3 or data 4) is generated wherein the first weight may be the integrated data (3) which receives data's 2, 4 and 5.

It is also noted based upon the decision by the Supreme Court in KSR vs Teleflex, the premise that predictable variations, which could be performed by someone of ordinary skill in the art, would likely be barred via an obviousness (103) rejection. In the instant case the weighting of data/information as claimed, provides predictable results, and thus the 103 rejection was made. In the event the applicant disagrees and maintains that the results are not predictable the examiner requests applicant to clarify as such, and reasons stating why one of ordinary skill in the art could not implement/carry out such alleged (if applicants positively responds to such) variations, In order to expedite prosecution. The examiner's premise is the manipulation/weighting of data, whether using statistical/probability models etc...provides results which are based upon an equation(s)/algorithm(s), thereby being derived/predicted from such.

Regarding the newly added prediction taps, prediction coefficients and information (first and second) indicating a spatial and temporal resolution of the content data, such practices have been known as evidenced by the assignee/inventor, US 5,946,044, Kondo (col 26, line 16-44) which described such conventional practices. The examiner notes the Kondo reference was published more than one year prior to the applicant's invention.

The motivation for modify Yuen which discloses a PC/TV display device would be to provide the user the benefit of a higher definition picture as demonstrated by Kondo for the obvious advantage of having a higher resolution/display.

In considering claims 2-3,

Refer to claim 1 above.

In considering claim 4,

Yuen discloses a user selection via input device 44.

b) the claimed control command/data input detection...is met where the system includes a viewer input device 44 which is used by the SA to control the selection/filtering of information.

c-d) the claimed wherein the generation means...is met wherein the SA based upon the user's selection determines the information that is delivered which can be matched, filtered or selected. Thus if a user spends more time enter a certain genre of information, the SA will customize the targeting using such genre (i.e. more weight for more time). By the same token if a user does not spend any time any particular genre/program/type of material, the system will not weight this material/content as much as what a user spends time watching/entering.

In considering claim 6,

Yuen discloses that based upon a user's viewing habits/profile, will provide the user information that is matched, filtered or selected based upon such habits/profile. Thus the data/features of video/audio services will be processed and delivered or not based upon the user's profile.

In considering claim 13,

Refer to claim 1 above.

In considering claim 14,

Yuen discloses a receiver with a memory in addition to the ability to download information (col 2, line 9-22) meeting the claimed storage means.

In considering claims 7-8,

Yuen/Kondo does not explicitly recite the mean/variance of image level in feature detection, although it is known that data can be analyzed in a multitude of way in order to ascertain image quality/content or change, thus the examiner takes "OFFICIAL NOTICE" regarding such.

In considering claims 9-12,

Yuen/Kondo does not explicitly recite the detection of environmental information (i.e. ambient conditions). However, the concept of altering the viewing experience based upon temperature, time of day etc...are notoriously well known in the art and thus the examiner takes "OFFICIAL NOTICE" regarding such, since the inclusion of such enhances the viewing experience as previously known in the art.

In considering claim 15,

Although Yuen/Kondo does not explicitly recite removable storage, Yuen does disclose a system which may operate in a computer, television environment wherein it is known to store data on a removable media, such as a CD, DVD, etc...thus the examiner takes "OFFICIAL NOTICE" regarding such, for the obvious purpose of giving the user added portability/security of such information.

***Conclusion***

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Yenke whose telephone number is (571)272-7359. The examiner work schedule is Monday-Thursday, 0730-1830 hrs.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's Supervisor, David L. Ometz, can be reached at (571)272-7593.

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**or faxed to:**

**(571)-273-8300**

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703)305-HELP.



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(TDD) 703-305-7785

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Art Unit: 2622

(CRF) sequence listings for pending biotechnology patent applications, which were filed in paper form.

/BRIAN P. YENKE/  
Primary Examiner, Art Unit 2622

B.P.Y  
25 March 2009